

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION**

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	3:15-cr-00043-RLY-CMM
vs.)	
)	
TIMOTHY P. RICE,)	-08
Defendant.)	

REPORT AND RECOMMENDATION

On March 28, 2019, the Court held a final hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on March 14, 2019. Timothy P. Rice (“Defendant”) appeared in person with FCD counsel, Michael Donahoe. The government appeared by Kyle Sawa, Assistant United States Attorney. U. S. Probation appeared by Officer Jennifer Considine.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. §3583:

1. The Court advised Defendant of his rights and provided him with a copy of the petition. Defendant orally waived his right to a preliminary hearing.

2. After being placed under oath, Defendant admitted Violation No 1.
[Docket No. 1427.]

3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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1	<p>“The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance.”</p>
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On March 1, 2019, Timothy Rice tested positive for methamphetamine and admitted use on February 26, 2019. Mr. Rice also admitted methamphetamine use on March 7, 11, 12, and 13, 2019. As previously reported to the Court, Mr. Rice admitted to using marijuana on September 8, 2018, and throughout the month of November 2018. He also admitted to using methamphetamine and cannabinoids on or about January 18, 2019, and continued methamphetamine use on February 2, 9, 13, and 16, 2019.

4. The parties stipulated that:

- (a) The highest grade of violation is a Grade **B** violation.
- (b) Defendant’s criminal history category is **VI**.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is **21 to 24** months imprisonment.

5. Parties jointly recommended that defendant be incarcerated for fifteen (15) months with ten (10) months supervised release to follow.

6. The Magistrate Judge, having considered the factors in 18 U.S.C. §3553(a), and as more fully set forth on the record, finds that:

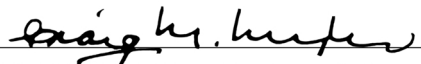
- (a) The Defendant violated a condition of supervised release;
- (b) The agreement of the parties is an appropriate resolution of this matter and the agreement is commended to the favorable consideration of the District Judge;
- (c) Consistent with the agreement, the Magistrate Judge recommends that the defendant’s supervised release be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of fifteen (15) months

with ten (10) months supervised release to follow. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation. The Court will make a recommendation of placement at FCI Memphis, Tennessee.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge.

The parties waived the 14-day right to appeal this recommendation on the record.

Dated: March 28, 2019


CRAIG M. McKEE, Magistrate Judge
United States District Court
Southern District of Indiana

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